

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Public Services - Disciplinary proceedings against Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension) - Charge held 'Proved' - Not suitable for the post of Deputy Superintendent of Police - Orders - Issued.

HOME (SERVICES-I) DEPARTMENT

G.O.Ms.No. 495

Dated: 23-12-2009

Read the following:-

1. G.O.Ms.No.151, Home (Police-E) Dept., dated 20.3.1992.
2. G.O.Ms.No.352, Home (Police-E) Dept., dated 29.4.1994.
3. G.O.Ms.No.705, Home (Police-E) Dept., dated 6.10.1994.
4. From the Hon'ble Tribunal Interim Orders dated 31.10.1994 in O.A.No. 6260/1994.
5. G.O.Ms.No.822, Home (Police-E) Dept., dated 16.12.1994.
6. From the Hon'ble Tribunal Orders dated 19.7.2002 in O.A.No.6260/1994.
7. G.O.Ms.No.59, Home (Police-Legal-I) Dept., dated 25.2.2004.
8. Memo Rc.No.543/O2/94, dated 17.6.2004 of Director General of Police, A.P., Hyderabad.
9. From the Hon'ble Tribunal Interim Orders dated 7.8.2007 in O.A.No.532/2007.
10. From the Hon'ble Tribunal Orders dated 31.7.2008 in O.A.No.3016/2004.
11. Hon'ble High Court of A.P., Orders dated 30.9.2008 in W.P.No.21453/2008.
12. Memo Rc.No.543/O2/94, dated 21.10.2008 of the Director General of Police, A.P., Hyderabad.
13. From the Director General of Police, A.P., Hyderabad, Letter Rc.No.543/O2/94, dated 11.5.2009.
14. Govt. Memo No.14930/Ser.I/A2/2004, dated 6.6.2009.
15. From Sri K.Sunil Dutt, Probationary D.S.P. (u/s), Explanation dated 1.7.2009.
16. Govt. Letter No. Letter No.14930/Ser.I/A2/2004, dated 23.9.2009.
17. From the Secretary, A.P. Public Service Commission, Hyderabad, Letter No.1231/RT-I/2/09, dated 4.11.2009.

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In Notification No.8/90, dated 23.7.90, certain posts of Deputy Superintendents of Police, Category-II meant for direct recruitment, were notified by the Andhra Pradesh Public Service Commission and the prescribed height for the said post is 165 cms. In response to the notification, Sri K.Sunil Dutt, applied for Group-I posts including the post of DSP Cat.II. In the main application form prescribed by Andhra Pradesh Public Service Commission, he furnished his height as 165 cms. against the Col.No.7 physical measurements. After his selection and based on the recommendations of the Andhra Pradesh Public Service Commission, the Government in the G.O. 1st read above, appointed him as Deputy Superintendent of Police, Category-II and placed him on probation for a period of 2 ½ years on duty within a continuous period of 3 years. On his appointment, he reported in A.P. Police Academy on 31.3.92. While undergoing training in A.P. Police Academy, his height was measured by the Director, A.P. Police Academy and found that his height is just 161 cms. i.e. 4 cms. short. For correctness of his measurement, a Committee was constituted in A.P. Police Academy, and the Committee revealed that the height of Sri K.Sunil Dutt is only 161 cms i.e. short by 4 cms. prescribed for the post of Deputy Superintendent of Police, Category-II. In view of the said report, a Medical Board was constituted under the supervision of Osmania General Hospital on 16.1.1993. The Medical Board examined Sri K.Sunil Dutt, and they opined that his height is 161 cms and sent their opinion vide Lr.No.MRD/MB/92/449, dated 25.11.1993. Thus, it has been established that his height is only 161 cms. and not 165 cms as furnished by him in the application form submitted to the Andhra Pradesh Public Service Commission. A criminal case was filed in this regard against him and subsequently he was acquitted merely on technical grounds, than on merits.

2. Government after careful examination of the entire matter, placed Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police, under suspension vide G.O.2nd read above and thereafter further examined the matter and issued orders terminating his probation, vide G.O. 3rd read above. He challenged the orders of the Govt. in O.A.No.6260/1994. The

Hon'ble APAT in their interim orders passed at admission stage on 31.10.1994, staying the operation of the G.O.Ms.No.705, Home (Pol.E) Dept., dated 6.10.1994. The interim orders of the Hon'ble Tribunal was implemented by the Government and Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension) was reinstated into service, subject to final outcome of the O.A. No.6260/94 pending before the Hon'ble APAT and that he shall continue to remain under suspension until further orders, vide G.O. 5th read above. Subsequently, the Hon'ble Tribunal in their order dated 19.7.2002, disposed the said O.A. by setting aside the orders issued in G.O.Ms.No.705, Home (Pol.E) Dept., dated 6.10.1994 and stated that this order does not preclude the authorities to take such action as they deem it fit in accordance with rules. Pursuant to the orders of Hon'ble Tribunal, the Government issued orders in the G.O. 7th read above and requested the Director General of Police, A.P., Hyderabad to initiate departmental enquiry as per rule-20 of APCS (CC&A) Rules, 1991 against Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension), for suppression of the facts of his height.

3. In the reference 8th read above, an article of charge was issued to Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension) under rule-20 of APCS (CC&A) Rules, 1991, for the following delinquency:-

"He cheated Police Dept. by suppressing the fact of his height for getting employment by direct recruitment as Deputy Superintendent of Police, Category-II".

4. Instead of submitting the written statement of defense, the Charged Officer filed an O.A.No.532/07 before Hon'ble Tribunal. The Hon'ble Tribunal in their interim orders dated 7.8.2007 stayed further proceedings pursuant to the said charge memo. In another O.A.No.3016/2004 filed by Sri P.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension), the Hon'ble Tribunal in their order dated 31.7.2008, passed the following order:

"Therefore, the application is allowed in part and Para-4 of the G.O.Ms.No.59, Home (Legal.I) Dept., dated 25.2.2004, is upheld. The respondents are directed to complete the departmental enquiry against the applicant in accordance with rules **within a period of six months** from the date of receipt of this order. If they fail to do so, the respondent shall pass orders revoking the orders of suspension. If the departmental enquiry is delayed due to conduct of the applicant or for the reasons beyond the control of the respondents, they are at liberty to move this Tribunal for extension of time by stating the reasons and progress that is shown."

5. In the meanwhile, Sri P.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension) approached the Hon'ble High Court vide W.P.No.21453/2008. The Hon'ble High Court disposed of said the WP on 30.9.2008, with following modification:-

"We do not find any error in the order of the Tribunal directing the respondents to complete departmental enquiry already initiated against the petitioner in accordance with the rules. But, however, we modify the order of the Tribunal by reducing the period of six months to four months i.e. by 31.11.2008, the enquiry initiated against the petitioner has to be completed. In default of completion of enquiry within the stipulated period, the order of suspension stands revoked and the petitioner shall be reinstated into service."

6. However, Government filed an Affidavit before the Hon'ble High Court of A.P., seeking extension of time for issue of final orders in the disciplinary case.

7. In view of the above orders of High Court, the stay granted by the Hon'ble APAT in their order dated 7.8.2007 in O.A.No.532/07 become inoperative and therefore the Director General of Police, A.P., Hyderabad in his proceedings No.543/O2/94, dated 21.10.2008 appointed Sri R.Eshwar Reddy, IPS, I.G.P. (Training) as Enquiry Officer to enquire into the charges framed against Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension). Even at this stage also he wanted the change of Enquiry Officer, without any reason. The Government have rejected his request and requested the D.G.P., Hyderabad to got the enquiry conducted by the same Enquiry Officer, expeditiously. The Enquiry Officer has continued and completed the O.E. and submitted the minutes vide his letter No.1/IGP/ Trg/Camp/09-1, dated 28.4.2009, holding the charge held '**Proved**'.

8. Government accepted the findings of Inquiring Authority and in the reference 14th read above, a copy of inquiry report was communicated to the Charged Officer, as required under rule 21(2) of APCS (CC&A) Rules, 1991, calling his explanation thereon if any, within (15) days from the date of its receipt. He was also requested to make a statement on his actual height, since it is susceptible for re-verification even now by the Medical Board, for the reason that he cannot be appointed as Deputy Superintendent of Police, with less than the height of 165 cms., as it is contrary to rules.

9. In the reference 15th read above, the Charged Officer has submitted his explanation dated 1.7.2009.

10. After careful examination of the entire matter, Government have observed that Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension) has erred in giving his height as 165 cms, while his height was 161 cms., as established before Medical Board. As per rules, his height must be 165 cm. Since his height is 161 cms., i.e. shortfall of 4 cms. to the prescribed height of 165 cms., his appointment as Deputy Superintendent of Police, would be contrary to rules. Further, the charge was held 'proved' by the Inquiring Authority. Therefore, Government have provisionally decided to impose the penalty of 'Dismissal from Service' on Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension), under Rule-9 of APCS (CC&A) Rules, 1991.

11. In the reference 16th read above, Government sought the advice of Andhra Pradesh Public Service Commission on the imposition of proposed penalty of 'Dismissal from service' on the charged officer. The Secretary, Andhra Pradesh Public Service Commission in his letter 17th read above informed that Commission has not agreed to the proposal of the Government to dismiss Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension) from service.

12. After careful examination of the entire matter with reference to the records made available, Government have considered that the said Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (under suspension) is not suitable for appointment as Deputy Superintendent of Police due to shortage of height.

13. Accordingly, Government hereby **reject** the request of Sri K.Sunil Dutt, for appointment as Deputy Superintendent of Police. Separate action will be taken for submission of false information by Sri K.Sunil Dutt relating to his height. However, Government will examine the possibility of alternative employment to the Individual, as per rules, in consultation with Andhra Pradesh Public Service Commission.

14. The Director General of Police, Andhra Pradesh, Hyderabad shall take action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJAY MISRA
PRINCIPAL SECRETARY TO GOVERNMENT (I/C)

To

Sri K.Sunil Dutt, Probationary Deputy Superintendent of Police (u/s)

through Director General of Police, A.P. Hyderabad .

The Director General of Police, A.P. Hyderabad.

Copy to:

The Secretary, Andhra Pradesh Public Service Commission, Hyderabad.

The Secretary, Andhra Pradesh Vigilance Commission, Hyderabad.

The Director of Treasuries & Accounts, A.P. Hyderabad

The Accountant General of Andhra Pradesh, Hyderabad.

SF/SC

// Forwarded :: by order //

SECTION OFFICER